

REFERENCE TITLE: **roadside memorials**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2191

Introduced by
Representative Konopnicki

AN ACT

AMENDING TITLE 28, CHAPTER 19, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5;
AMENDING SECTION 28-6991, ARIZONA REVISED STATUTES; AMENDING TITLE 28,
CHAPTER 20, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 14; RELATING TO
ROADSIDE MEMORIALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 28, chapter 19, Arizona Revised Statutes, is amended
3 by adding article 5, to read:

4 ARTICLE 5. ROADSIDE MEMORIALS

5 28-6821. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "COUNTY MEMORIAL" MEANS A PLAQUE, MONUMENT OR SIMILAR OBJECT PLACED
8 IN A PARTICULAR LOCATION ON A COUNTY ROAD TO COMMEMORATE ONE OR MORE PEOPLE
9 WHO DIED ON THAT COUNTY ROAD.

10 2. "ERECT" MEANS TO CONSTRUCT OR ALLOW TO BE CONSTRUCTED.

11 3. "MAINTAIN" MEANS TO PRESERVE, KEEP IN REPAIR OR REPLACE.

12 28-6822. County memorials; application; fees; size, height and
13 location restrictions

14 A. A PERSON MAY ERECT AND MAINTAIN A COUNTY MEMORIAL IF THE COUNTY
15 MEMORIAL CONFORMS WITH THE REQUIREMENTS OF THIS SECTION AND, IF REQUIRED BY
16 THE COUNTY, THE BOARD OF SUPERVISORS OR THE BOARD'S DESIGNEE HAS ISSUED A
17 PERMIT TO ERECT AND MAINTAIN THE COUNTY MEMORIAL ON A COUNTY ROAD. AN
18 APPLICANT FOR A PERMIT TO ERECT AND MAINTAIN A COUNTY MEMORIAL ON A COUNTY
19 ROAD SHALL BE EXCLUSIVELY RESPONSIBLE FOR THE TYPE, LOCATION AND DESIGN OF
20 THE COUNTY MEMORIAL, SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

21 B. AN APPLICATION FOR A PERMIT TO ERECT AND MAINTAIN A COUNTY MEMORIAL
22 ON A COUNTY ROAD SHALL BE MADE ON A FORM PROVIDED BY THE COUNTY, SHALL BE
23 SIGNED BY THE APPLICANT OR THE APPLICANT'S DULY AUTHORIZED OFFICER OR AGENT
24 AND SHALL INCLUDE ALL OF THE FOLLOWING:

25 1. THE TYPE, PROPOSED LOCATION AND DIMENSIONS OF THE PROPOSED COUNTY
26 MEMORIAL AND OTHER INFORMATION REQUIRED BY THE FORM.

27 2. THE NAME AND ADDRESS OF THE APPLICANT.

28 3. THE NAME OF THE INDIVIDUAL MEMORIALIZED AND THE HIGHWAY WHERE THE
29 INDIVIDUAL DIED.

30 4. AN AGREEMENT BY THE APPLICANT TO ERECT AND MAINTAIN THE COUNTY
31 MEMORIAL IN A SAFE, SOUND AND GOOD CONDITION.

32 5. A FEE PRESCRIBED BY THE BOARD OF SUPERVISORS. THE COUNTY TREASURER
33 SHALL DEPOSIT THESE FEES IN THE APPLICABLE COUNTY HIGHWAY OR TRANSPORTATION
34 FUND.

35 C. COUNTY MEMORIALS SHALL NOT EXCEED THREE FEET IN HEIGHT ABOVE THE
36 GROUND, TWO FEET IN WIDTH AND SIX INCHES IN THICKNESS. COUNTY MEMORIALS
37 SHALL BE CONSTRUCTED OF A DURABLE MATERIAL AND SHALL NOT CONTAIN ANY MOVING
38 OR ELECTRONIC PARTS. COUNTY MEMORIALS SHALL BE LOCATED WITHIN THE HIGHWAY
39 EASEMENT AS FAR FROM THE ROADWAY AS IS PRACTICABLE OR REASONABLY NECESSARY TO
40 PRESERVE PUBLIC SAFETY AND FACILITATE HIGHWAY MAINTENANCE, GIVEN THE PROPOSED
41 LOCATION. COUNTY MEMORIALS MAY CONTAIN THE NAME OF THE INDIVIDUAL
42 MEMORIALIZED, THE DATES OF THE INDIVIDUAL'S BIRTH AND DEATH AND OTHER
43 RELEVANT INFORMATION. MORE THAN ONE INDIVIDUAL MAY BE MEMORIALIZED ON ONE
44 COUNTY MEMORIAL. IF THE INDIVIDUAL MEMORIALIZED WAS A LAW ENFORCEMENT
45 OFFICER OR EMERGENCY SERVICES PERSONNEL AT THE TIME OF THE INDIVIDUAL'S

1 DEATH, AN INSIGNIA MAY BE PLACED ON THE MEMORIAL INDICATING THE INDIVIDUAL'S
2 INVOLVEMENT IN LAW ENFORCEMENT OR EMERGENCY SERVICES.

3 D. THE BOARD OF SUPERVISORS, OR THE BOARD'S DESIGNEE, SHALL DENY AN
4 APPLICATION IF THE PROPOSED TYPE OR LOCATION OF THE COUNTY MEMORIAL WOULD
5 RESULT IN A POTENTIAL SAFETY HAZARD OR MAINTENANCE IMPEDIMENT. THE BOARD OF
6 SUPERVISORS, OR THE BOARD'S DESIGNEE, MAY SUGGEST THAT THE APPLICANT CONSIDER
7 AN ALTERNATIVE DESIGN OR PLACEMENT AND MAY REMOVE ANY COUNTY MEMORIAL THAT
8 DOES NOT COMPLY WITH THIS SECTION, INCLUDING NONCOMPLIANCE BY THE APPLICANT'S
9 FAILURE TO SUBSTANTIALLY PERFORM ANY ERECTION OR MAINTENANCE AGREEMENT
10 SPECIFIED IN THE PERMIT. THE BOARD OF SUPERVISORS, OR THE BOARD'S DESIGNEE,
11 MAY DENY OR REVOKE A PERMIT FOR FALSE OR MISLEADING INFORMATION GIVEN IN THE
12 APPLICATION OR FOR THE ERECTION OR MAINTENANCE OF A COUNTY MEMORIAL IN
13 VIOLATION OF THIS SECTION.

14 E. A COUNTY MEMORIAL MAY BE ERECTED AND MAINTAINED IF THE DECEASED
15 INDIVIDUAL WHO IS BEING COMMEMORATED DIED BEFORE OR AFTER THE EFFECTIVE DATE
16 OF THIS ARTICLE.

17 F. THE APPLICANT SHALL PAY FOR THE COST OF THE COUNTY MEMORIAL. WHEN
18 THE COUNTY MEMORIAL IS REMOVED IT SHALL BE GIVEN TO THE APPLICANT.

19 28-6823. Permitting process

20 A. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO REQUIRE A COUNTY TO
21 ESTABLISH A PERMITTING PROCESS PURSUANT TO THIS ARTICLE, BUT NO COUNTY MAY
22 PROHIBIT OR DENY REQUESTS FOR PLACEMENT OF ROADSIDE MEMORIALS ON COUNTY ROADS
23 IN THE ABSENCE OF A PERMITTING PROCESS THAT COMPLIES WITH THIS ARTICLE.

24 B. IF A COUNTY ESTABLISHES A PERMITTING PROCESS:

25 1. ONLY COUNTY MEMORIALS THAT COMPLY WITH THIS ARTICLE ARE ALLOWED ON
26 A ROAD IN THAT COUNTY TO COMMEMORATE AN INDIVIDUAL WHO DIED ON THAT ROAD.

27 2. ANY SHRINE OR MEMORIAL THAT IS PRESENT ON A ROAD IN THAT COUNTY ON
28 THE EFFECTIVE DATE OF THIS ARTICLE SHALL BE REMOVED OUT OF CONCERN FOR
29 HIGHWAY SAFETY AND THE DECEASED INDIVIDUAL.

30 Sec. 2. Section 28-6991, Arizona Revised Statutes, is amended to read:

31 28-6991. State highway fund; sources

32 A state highway fund is established that consists of:

33 1. Monies distributed from the Arizona highway user revenue fund
34 pursuant to chapter 18 of this title.

35 2. Monies appropriated by the legislature.

36 3. Monies received from donations for the construction, improvement or
37 maintenance of state highways or bridges. These monies shall be credited to
38 a special account and shall be spent only for the purpose indicated by the
39 donor.

40 4. Monies received from counties under cooperative agreements,
41 including proceeds from bond issues. The state treasurer shall deposit these
42 monies to the credit of the fund in a special account on delivery to the
43 treasurer of a concise written agreement between the department and the
44 county stating the purposes for which the monies are surrendered by the
45 county, and these monies shall be spent only as stated in the agreement.

5. Monies received from the United States under an act of Congress to provide aid for the construction of rural post roads, but monies received on projects for which the monies necessary to be provided by this state are wholly derived from sources mentioned in paragraphs 2 and 3 of this section shall be allotted by the department and deposited by the state treasurer in the special account within the fund established for each project. On completion of the project, on the satisfaction and discharge in full of all obligations of any kind created and on request of the department, the treasurer shall transfer the unexpended balance in the special account for the project into the state highway fund, and the unexpended balance and any further federal aid thereafter received on account of the project may be spent under the general provisions of this title.

6. Monies in the custody of an officer or agent of this state from any source that is to be used for the construction, improvement or maintenance of state highways or bridges.

7. Monies deposited in the state general fund and arising from the disposal of state personal property belonging to the department.

8. Receipts from the sale or disposal of any or all other property held by the department and purchased with state highway monies.

9. Monies generated pursuant to section 28-410.

10. Monies distributed pursuant to section 28-5808, subsection B, paragraph 2, subdivision (d).

11. Monies deposited pursuant to sections 28-1143, 28-2353 and 28-3003.

12. Except as provided in section 28-5101, the following monies:

(a) Monies deposited pursuant to section 28-2206 and section 28-5808, subsection B, paragraph 2, subdivision (e).

(b) One dollar of each registration fee and one dollar of each title fee collected pursuant to section 28-2003.

(c) Two dollars of each late registration penalty collected by the director pursuant to section 28-2162.

(d) The air quality compliance fee collected pursuant to section 49-542.

(e) The special plate administration fees collected pursuant to sections 28-2404, 28-2412 through 28-2428 and 28-2514.

(f) Monies collected pursuant to sections 28-372, 28-2155 and 28-2156 if the director is the registering officer.

13. Monies deposited pursuant to chapter 5, article 5 of this title.

14. Donations received pursuant to section 28-2269.

15. Dealer and registration monies collected pursuant to section 28-4304.

16. Abandoned vehicle administration monies deposited pursuant to section 28-4804.

17. Monies deposited pursuant to section 28-710, subsection D, paragraph 2.

18. MONIES DEPOSITED PURSUANT TO SECTION 28-7382.

1 Sec. 3. Title 28, chapter 20, Arizona Revised Statutes, is amended by
2 adding article 14, to read:

3 ARTICLE 14. ROADSIDE MEMORIALS

4 28-7381. Definitions

5 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

6 1. "ERECT" MEANS TO CONSTRUCT OR ALLOW TO BE CONSTRUCTED.

7 2. "MAINTAIN" MEANS TO PRESERVE, KEEP IN REPAIR OR REPLACE.

8 3. "STATE MEMORIAL" MEANS A SIGN ON A STATE HIGHWAY TO COMMEMORATE ONE
9 OR MORE PEOPLE WHO DIED ON THAT STATE HIGHWAY.

10 28-7382. State memorials; application; fees; location

11 A. THE DEPARTMENT SHALL ERECT AND MAINTAIN A STATE MEMORIAL IN
12 ACCORDANCE WITH THIS SECTION. THE DEPARTMENT IS EXCLUSIVELY RESPONSIBLE FOR
13 THE TYPE, LOCATION AND DESIGN OF THE STATE MEMORIAL.

14 B. AN APPLICATION FOR A STATE MEMORIAL SHALL BE MADE ON A FORM
15 PROVIDED BY THE DEPARTMENT, SHALL BE SIGNED BY THE APPLICANT OR THE
16 APPLICANT'S DULY AUTHORIZED OFFICER OR AGENT AND SHALL INCLUDE ALL OF THE
17 FOLLOWING:

18 1. THE NAME AND ADDRESS OF THE APPLICANT.

19 2. THE NAME OF THE INDIVIDUAL MEMORIALIZED AND THE HIGHWAY WHERE THE
20 INDIVIDUAL DIED.

21 3. A FEE TO BE DETERMINED BY THE DEPARTMENT. THE DEPARTMENT SHALL
22 DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, ALL FEES IN THE STATE
23 HIGHWAY FUND ESTABLISHED BY SECTION 28-6991.

24 C. THE DEPARTMENT SHALL DENY AN APPLICATION FOR A STATE MEMORIAL IF
25 THE PROPOSED LOCATION OF THE MEMORIAL WOULD RESULT IN A POTENTIAL SAFETY
26 HAZARD OR MAINTENANCE IMPEDIMENT. THE DEPARTMENT MAY SUGGEST THAT THE
27 APPLICANT CONSIDER AN ALTERNATIVE DESIGN OR PLACEMENT.

28 D. THE DEPARTMENT MAY DENY AN APPLICATION OR REVOKE THE APPROVAL OF AN
29 APPLICATION FOR FALSE OR MISLEADING INFORMATION GIVEN IN THE APPLICATION FOR
30 A STATE MEMORIAL PRESCRIBED BY SUBSECTION B OF THIS SECTION.

31 E. A STATE MEMORIAL SHALL BE LOCATED WITHIN THE HIGHWAY EASEMENT AS
32 FAR FROM THE ROADWAY AS IS PRACTICABLE OR REASONABLY NECESSARY TO PRESERVE
33 PUBLIC SAFETY AND FACILITATE HIGHWAY MAINTENANCE, GIVEN THE PROPOSED
34 LOCATION. A STATE MEMORIAL SHALL CONTAIN THE NAME OF THE INDIVIDUAL
35 MEMORIALIZED AND SHALL BE ERECTED AND MAINTAINED FOR AT LEAST TWO
36 YEARS. MORE THAN ONE INDIVIDUAL MAY BE MEMORIALIZED ON ONE STATE
37 MEMORIAL. IF THE INDIVIDUAL MEMORIALIZED WAS A LAW ENFORCEMENT OFFICER OR
38 EMERGENCY SERVICES PERSONNEL AT THE TIME OF THE INDIVIDUAL'S DEATH, AN
39 INSIGNIA MAY BE PLACED ON THE MEMORIAL INDICATING THE INDIVIDUAL'S
40 INVOLVEMENT IN LAW ENFORCEMENT OR EMERGENCY SERVICES.

41 F. ONLY STATE MEMORIALS THAT COMPLY WITH THIS ARTICLE ARE ALLOWED ON A
42 STATE HIGHWAY TO COMMEMORATE AN INDIVIDUAL WHO DIED ON THAT HIGHWAY.

43 G. ANY SHRINE OR MEMORIAL THAT IS PRESENT ON A STATE HIGHWAY ON THE
44 EFFECTIVE DATE OF THIS ARTICLE SHALL BE REMOVED OUT OF CONCERN FOR HIGHWAY
45 SAFETY AND THE DECEASED INDIVIDUAL.

1 H. A STATE MEMORIAL MAY BE ERECTED AND MAINTAINED IF THE INDIVIDUAL
2 WHO IS BEING COMMEMORATED DIED BEFORE OR AFTER THE EFFECTIVE DATE OF THIS
3 ARTICLE.

4 I. THE APPLICANT SHALL PAY FOR THE COST OF THE STATE MEMORIAL. WHEN
5 THE STATE MEMORIAL IS REMOVED IT SHALL BE GIVEN TO THE APPLICANT.

6 28-7383. Federal law conflict

7 IF ANY PROVISION OF THIS ARTICLE CONFLICTS WITH FEDERAL LAW, THE
8 DEPARTMENT SHALL NOT ERECT OR MAINTAIN STATE MEMORIALS PURSUANT TO THIS
9 ARTICLE.